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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,255	12/03/2003	John Landau	449-117	4906
83336	7590	04/06/2011		
Gilman Pergament LLP 1480 Route 9 North Suite 204 Woodbridge, NJ 07095			EXAMINER AL AUBAIDI, RASHA S	
			ART UNIT	PAPER NUMBER
			2614	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/727,255

**Applicant(s)**

LANDAU, JOHN

**Examiner**

RASHA S. AL AUBAIDI

**Art Unit**

2614

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 and 26-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 26-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/01/2010 has been entered.

### ***Response to Amendment***

2. This in response to an RCE amendment filed 12/01/2010. Claim 31 has been added. No claims have been canceled. Claim 15 has been amended. Claims 1-22 and 26-31 are still pending in this application.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 8, 15, 16, 18, 20 and 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pei (US PAT # 5,406,620) in view of Alston et al. (US PAT # 7,376,126).

Regarding claim 1, Pei teaches a system is disclosed for allocating international transit calls among a plurality of carriers in a terminating country in accordance with **routing information that has been previously specified** (the claimed routing information reads on the stored indicia, as recited in claim 1). Upon receipt of an international transit call, an **originating gateway** switch can **access** (this can read on the claimed feature of comparing said indicia to data associated with incoming call) **the appropriate carrier treatment** (reads on the stored indicia) (see abstract of the invention, col. 2, lines 15-18, lines 31-48, col. 3, lines 41-52).

Pei does not specifically teach that the originating gateway comprising more than one port and each port is being different from each other.

However, the Examiner now introduces Alston which teaches in one embodiment that the broadband gateway has individual ports assigned to each of a plurality of messaging devices (see col. 10, lines 5-7). Alston also teaches that each one of those port is unique (see col. 3, lines 17-18).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of having multiple ports assigned to a gateway and each port is different than the other, as taught by Alston, into the Pei teachings in order to expand and increase system's diversity.

Claims 8, 15-16, 18, 20 and 26 are rejected for the same reasons as discussed above with respect to claim 1. The claimed feature of "port" as recited in claim 16 is inherent in the system and method of Pei. For the claimed feature of "AAA" see Alston (col. 6, lines 30-34). For claim 15, the claimed feature of performing accounting for incoming calls by a third entity located remotely from the gateway may reside on the message application server 50 which contains AAA server (see col. 6, lines 30-34). Note the claimed feature of "said gateway comprising a plurality of ports, one or more of said plurality of ports operating to receive one or more of said incoming calls from preauthorized carriers...etc" is obvious within the teachings of Pei and Alston, since Pei already teaches allocating international transit calls among a plurality of carriers in a terminating country in accordance with routing information that has been previously specified which here referred to the stored indicia (i.e., authorized carrier).

For claims 3 and 10, see col. 3, lines 53-65.

For claims 27-30, the limitations of how to handle the arrival of the incoming call such as accepting or denying the call are old and well known features in the art of telephony. Also, handling calls based on certain characteristics factors is an obvious limitation. All these characteristics can be pre-defined by the user or the system in order to set how the incoming call can be handled.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4-7, 9, 11-14, 17, 19, 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pei (US PAT # 5,406,620) in view Alston further in view of Elliott et al. (Pub. No.: 2008/0025295).

Regarding claims 2, 9 and 19, the combination of Pei and Alston does not specifically teach the use of an "IVR" as recited in claim's language.

However, in a voice over data telecommunication s network architecture Elliott teaches the use of Network IVR 654 is an IVR that connects to data network 112. Network IVR 654 can communicate with soft switch 204 via the IPDC protocol [0399].

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of an IVR, as taught by Elliott, into the combination of Pei and Alston in order to achieve simple and fast way of collecting and gathering information.

Regarding claims 4 and 11, Pei does not specifically teach that the claimed indicia comprise a PIN. However, one of ordinary skill in the art may choose the indicia to be any type of information.

Regarding claims 5 and 12, for the claimed feature of having "originating gateway comprises more than one port ...etc", the Examiner believes that this limitation is obvious and it is considered a design choice. One of ordinary skill in the art may choose to assign any number of ports base on the need and desire.

For claims 6 and 13, see [0463].

For claims 7 and 14, Pei teaches that assigning and identifying carrier identifying indicia is done automatically. However, having a function performed manually instead of automatically or vice versa is extremely obvious and well known in the art of telephony. In re Venner, 262 F. 2d 91, 95, 120 USPQ 193, 194 (CCPA 1958); the court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient over prior art.

Claims 21-22 are rejected for the same reasons as discussed above with respect to claim 1 and 2, respectively.

For claim 17, see verification feature as discussed in Elliott [0034-0035, 0222, 0233, 0235-0237]

***Response to Arguments***

5. Applicant's arguments have been considered and have been found not persuasive.

Applicant argues (Page 8 of the Remarks) that "First, Applicant submits that one skilled in the art would not modify the Pei system to include ports, as taught by Alston, and to assign unique port to each carrier as alleged to arrive at the invention of independent claim 1 of the instant application because such a modification would not expand and increase the diversity of the Pei system". The Examiner respectfully disagrees, because simply there is no logical reason why an ordinary skill in the art would be able to modify the Pei system by having the originating gateway of Pei communicating to more than one carrier by having more than one port. The Pei system is directed to an originating gateway that is capable to identify a carrier based on routing information and other criteria stored (see abstract and col. 3, lines 40-65). Thus, by modifying Pei, as presented by the 35 U.S.C 103 (a) being unpatentable over Pei in view of Alston et al the gateway of Pei would be able to communicate via an assigned port to different carrier instead of one carrier.



It is noted that the main issue is having one originating gateway communicating to one carrier via one port Vs. plurality of carriers via more than one port. This is considered obvious and does not rise the invention to the level of novelty. Simply if the system of Pei is capable of communicating with one carrier via one port, then communicating with one than one carrier via more than one port would have been obvious and well known in the art. Again this can enhance and expand the system's diversity to be able to communicate with more than one carrier.

Applicant also argues (pages 9-10 of the Remarks) that "one skilled in the art would not modify the Pei system to include ports as taught by Alston, because the entire purpose of the teachings of Alston, especially with regard to assigning ports to each device, is to deal with privacy concerns". Applicant's attention is directed to the fact that Alston was introduced to overcome the deficiency of Pei of having more than one port. However, the Examiner believes that the main purpose or the main teachings and concerns of Alston is irrelevant , because the Examiner is relying on one embodiment that teaches broadband gateway has individual ports assigned to each of a plurality of messaging devices (see col. 10, lines 5-7). Alston also teaches that each one of those port is unique (see col. 3, lines 17-18).

The Examiner believes that other arguments are already addressed in the above rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S AL-Aubaidi whose telephone number is (571) 272-7481. The examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rasha S AL-Aubaidi/

Primary Examiner, Art Unit 2614

